

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

FILED

FEB 02 2004

In Re:

Stephen Davis and Rhonda Davis

Case No. 03-01321-5-ATS

Chapter 13

Social Security No.: xxx-xx-2619 and xxx-xx-5949
Address: 647 Bullocksville Park Road, Manson, NC 27553-

Debtors

PEGGY B. OLANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF NC

OPPOSITION TO MOTION FOR RELIEF

The Debtors, by and through the attorney undersigned, hereby oppose the motion for relief from automatic stay filed by CITIMORTGAGE, INC. (hereinafter the "creditor"), and dated 1/20/04, in its entirety, based upon the following:

Alleged Delinquency In Post-Petition Payments:

The Debtors admit that there is a delinquency in post-petition payments due directly to the creditor; however, the Debtors offer the following proposal to cure this delinquency:

1. The Debtors will resume making their regular monthly payments (hereinafter "regular payment") directly to the creditor, starting with the payment which comes due on or about February 1, 2004. In addition, the Debtors agree that in the event the they should henceforth fail to make any of these regular payments within 30 days after the date it comes due, the creditor shall be granted immediate relief from the automatic stay, without further notice, hearing or order. The Debtors request, however, that this "drop dead" provision terminate 12 months after the date of the entry of the Order resolving this matter.
2. In addition to resuming regular payments to this creditor, the Debtors will also pay the creditor an extra payment (hereinafter "extra payment") each and every month, in the amount of \$ 670.69, starting and along with the regular payment which comes due on February 1, 2004, and continuing until the alleged delinquency is paid in full. The Debtors agree that in the event they should fail to make any such extra payment within 30 days after the date that it comes due, the creditor shall be granted immediate relief from the automatic stay, without further notice, hearing or order.


Reimbursement Of Creditor's Attorney Fees

The Debtors agree to pay the expense incurred by the creditor in having to file this motion to the following extent: Attorney's fee in the amount of \$350.00, plus reimbursement of the filing fee in the amount of \$150.00. Said sum should be paid by the Chapter 13 Trustee "inside" the Chapter 13 plan, with the Chapter 13 plan deemed extended accordingly.

WHEREFORE, the Debtors pray that the Court deny the creditor's motion, set this matter for hearing, and provide such other relief as to the Court seems just and proper

Dated: January 30, 2004

IN WITNESS OF JOHN T. ORCUTT, P.C.



John T. Orcutt
6616-203 Six Forks Road
Raleigh, NC 27615
(919) 847-9750


CERTIFICATE OF SERVICE

I, Donnie Ray, of the Law Offices of John T. Orcutt, P.C., certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on January 30, 2004, I served copies of the foregoing **OPPOSITION TO MOTION FOR RELIEF**, by regular U.S. mail, upon the following parties (names and addresses):

Stephen Davis
and Rhonda Davis
647 Bullocksville Park Road
Manson, NC 27553-

John F. Logan
Chapter 13 Trustee
P.O. Box 61039
Raleigh, N.C. 27661-1039

Stephen L. Beaman
Attorney
Post Office Box 1907
Wilson, NC 27894-1907


Donnie Ray